

Law Office of James J. Clancy
9055 La Tuna Canyon Road
La Tuna Canyon, California 91352
818-352-2069
Fax: +1 (818) 352-6549

FAX COVER SHEET

FAX NUMBER TRANSMITTED TO: (513) 579-2121

To: Mr. Carl H. Lindner
American Financial Group
One East Fourth Street
Cincinnati, Ohio 45202

From: James J. Clancy, Esq

Client/Matter Financial Assistance in Reestablishing Time Motion Study Analysis
of Obscene Adult Motion Pictures for Prosecution.

Date: February 8, 2001

DOCUMENTS: (2) **TOTAL NUMBER OF PAGES:** 8*

Correspondence of Robin Gallagher with the Library of Congress re their interest in
C.D.L. correspondence over the years. 5

Estimates received from Samy's Camera on the Integral parts of the Digital Time and
Motion Study process. 3

COMMENTS: Dear Mr. Lindner:

I am transmitting the above documents, both of which are referred to in my Express
Mail letter to you, dated February 5, 2001

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MANUSCRIPT DIVISION

January 26, 2001

Dear Ms. Gallagher:

It was a great treat to talk with you about the James Clancy papers, and to have your assessment of the six volumes left with us for examination and report, your description of the large body of materials in California, and some very fruitful suggestions about how we can best explore these matters in greater detail. It **was** also generous of you to offer us your copy of the film that Mr. Clancy used in his testimony before the Judiciary Committee when it was considering the nomination of Abe Fortas as Chief Justice, should the Clancy papers come to the Library of Congress. I talked with John Haynes about our conversation later in the morning, and he **was** very sorry to have missed you.

I enclose a receipt for the Clancy papers that we **will** be examining in the near future. We are very grateful to you for bringing this collection to our attention.

Best regards,

A handwritten signature in dark ink, appearing to read "David Wigdor".

David Wigdor
Assistant Chief

Enclosure

Ms. Robin Gallagher
901 Cedar Fork Trail
Chapel Hill, NC 27514



THE UNIVERSITY OF NORTH CAROLINA
AT
CHAPEL HILL

School of Journalism and Mass Communication
919-962-1202
Fax: 919-962-0620

The University of North Carolina at Chapel Hill
Campus Box 3365, Carroll Hall
Chapel Hill, NC 27599-3365

February 4, 2001

Mr. James Clancy
9055 La Tuna Canyon Road
Sun Valley, California 91352

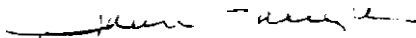
Dear Mr. Clancy:

This is a long overdue note to thank you for your continued interest in my research as a doctoral candidate at the University of North Carolina at Chapel Hill School of Journalism and Mass Communication. Without your unfailing willingness to help me understand the point of view of Citizens for Decent Literature (CDL), my access to primary resources would be very limited. As you know, I am trying to document how the United States Supreme Court has interpreted the meaning of the First Amendment right to discuss sex when a concern for children's moral welfare is presented. This study has entailed a comparison of the arguments presented by CDL, Morality in Media, and the American Civil Liberties Union. As long-term counsel for the CDL, your knowledge, not to mention your generous contribution of time, is an invaluable asset.

As impressed as I am with the articulate, thorough, and precise records you have kept, I am concerned that the nature of my particular research project will not fully explore your copious records. Your side of this important free speech debate merits preservation and serious study by historians and others interested in documenting a fascinating aspect of American life. As you know, in the interest of protecting your documents and making your contribution available for study, I have contacted the archivists at the Library of Congress. As the enclosed letter shows, Dr. David Wigdor, Assistant Chief Archivist, seems likewise interested in working with you to create a collection of your papers. This will no doubt be quite an undertaking, but I am positive that the effort will mean a rich reward for those of us interested in examining all sides of this long-standing First Amendment dispute.

Again, I am deeply appreciative of your generous gift of time, not to mention the replication of numerous records, briefs, personal correspondence, and CDL newsletters you have provided me. And, as rewarding as it will be for me to finish my dissertation, it will be likewise satisfying to visit the Library of Congress someday and find your records archived for further study.

Sincerely.



Robin Gallagher
Doctoral Candidate
University of North Carolina at Chapel Hill
School of Journalism and **Mass** Communication
Rmgallag@email.unc.edu
901 Cedar Fork Trail
Chapel Hill, North Carolina 27514

Enc



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MANUSCRIPT DIVISION

RECEIVED THIS DATE FROM:

Robin Gallagher
901 Cedar Fork Trail
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i

DESCRIPTION OF MATERIAL:

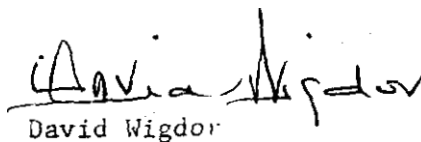
Six volumes of James Clancy papers

(5 volumes on a related legal issue; 1 bound letter to Charles Keating)

PURPOSE:

 X For examination and report

 Other


David Wigdor

Name

Manuscript Division

Title

26 January 001

Date



THE UNIVERSITY OF NORTH CAROLINA
AT
CHAPEL HILL

School of Journalism and Mass Communication
919-962-1204
Fax: 919-962-0620

The University of North Carolina at Chapel Hill
Campus Box 3365, Carrol Hall
Chapel Hill, NC 27599-3365

January 30, 2001

Mr. Charles Keating
3734 E. Windsor Avenue
Phoenix, Arizona 85008

Dear Mr. Keating:

Thank you so much for your permission to copy the film. I dropped it by the University's audio-visual office this morning. It will serve as essential background material for my next chapter.

To keep you up to date on my progress, the second chapter of the dissertation was just turned in to my adviser. I try to suppress the fact that there are five more such chapters to go. Nevertheless, the second chapter deals largely with the advent of the CDL, the concern the CDL caused the Cincinnati CLU and the ACLU, your congressional testimony, problems with J. Edgar Hoover, the stories of Roth, Sturman, Aday, and so on. The next chapter chronicles the CDL's displeasure with the USSC, the advent of Morality in Media, and how the CDL's approach to the obscenity problem differed from MIM's.

On another score, I have just returned from the Library of Congress, where I met with an archivist interested in James Clancy's papers. Apparently, the archivist and Mr. Clancy have spoken. The library was interested and wanted examples of his records. Samples in hand. I delivered them, along with a strong comment about the general thoroughness and historical significance of his collection. There is little else I can do now except hope that he will not become frustrated by the glacial pace of a bureaucracy like the LOC.

On that note I will close, thanking you again for all your assistance. Similarly, please thank Carol for her continued help. My best wishes for her mother's recovery.

Sincerely,

919-929-9089

Samy's Camera

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 TERMS: NO TERMS

To: JIM CLANCEY

To:

CONTACT:

ITEM	DESCRIPTION	QUANTITY	PRICE	AMOUNT
LM7688LLA	POWERMAC G4-533/128/40GB/ M7688LLA	1	2199.00	2,199.00
B13101332	ADOBE PHOTOSHOP 6.0 F/MAC 13101332	1	699.00	699.00
E90ENGO	Corel Draw 9.0 Single 90ENGO	1	249.00	243.00
YKV20FS12E	20IN COLOR TV GRAY KV20FS12GRAY	1	349.35	343.35
OC373011	Stylus Photo 2000P C373011	1	899.00	899.00
025201	D-1 DIGITRL SLR CAMERA 25201	1	4999.00	4,933.00
025242	AC RDRPTER F/D1 25242	1	115.00	115.00
025244	NIKON CAPTURE SOFTWARE/D1 25244	1	560.00	560.00
CTMD1GBDK	1 GIG KIT W/ADPT & CMRTE MD1GBDK	1	529.00	529.00
CI104009D	ELECTRON 22 BLUE MONITOR 104009	1	1333.35	1,399.95
K01987	AF MICRD NIKKOR 60MM F2.8 1987	1	459.00	453.00
CTDPCMUSB	USB CAMERAMATE COMP FLASH DPCMUSB	1	79.00	73.00
K04660	MC-30 REMOTE CORD 4660	1	70.98	712.98

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	PC - 950 MHZ 512 MB → RAM			
	IBM 75 GIG HD. 7200 RPM → SPEED			
	FLEX TOR CD RW → 16 × 10 × 40 → ↓ ↓ BURN REWRITE REED			
	(ESES) 64-2 VIDEO w 8 OUT.			
	ETHERNET CARD			
	FW			
	USB			
	FLOPPY			
	76K MODEM			
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	KEY BOARD			
	MICROSOFT MOUSE			
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Fax

Tel. (323) 857-9915
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Date:

02-08-00

431 S. Fairfax Ave.
Los Angeles, Ca. 90036

To:

Fax Number:

Number of pages:

(including cover sheet)

Regarding:

Daniel DeFazio
Pro Digital Specialist

Samy's Camera

818-352-6549

JIM CLANCEY

Digital Imaging

TWO PAGES

523 857 9916

P.02

INVOICE



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323-222-8530 FAX 323-222-0128
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CONTACT:

DESCRIPTION

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PRICE

AMOUNT

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FUJI PHOTOGRAPHY - 223

USED

JAMES J. CLANCY

ATTORNEY AT LAW

9055 LA TUNA CANYON ROAD

SUN VALLEY, CALIF. 91352

(818) 352-2060

February 9, 1990

I

Mr. James Evans
District Attorney of Montgomery County
P.O. Box 1667
Montgomery, Alabama 36102-1667

Dear Mr. Evans:

I am sending via Federal Express the following:

1. Letter dated July 31, 1988, to Senator Joseph Biden re appearance at confirmation of Richard Thornburgh with the following 7 exhibits, and letter of United States Senate General Counsel Jeffrey J. Peck, dated October 3, 1988, returning Exhibits 1-7:

Exhibit 1. Bound volume (5/8" thick). Letter dated July 21, 1988 to United States Attorney General Edwin Meese III.

Exhibits 2A, 2B, 2C, and 2D. Copy of videotapes of Exxxtasy Broadcast (S-1, channel 18) of "Suzy Superstar" and "Glitter" on March 12-13, 1988.

Exhibits 3A and 3B. Xerox copy (11" x 17") of time and motion study of "Suzy Superstar" and "Glitter" Exxxtasy Broadcast (S-1, channel 18) on March 12-13, 1988.

Exhibit 4. A portion of the book entitled, Fortas: The Rise and Ruin of a Supreme Court Justice.

Exhibit 5. Videotape copy of the "Fortas Film," of July 1, 1968, submitted to Senate Judiciary Committee in opposition to the appointment of Fortas as Chief Justice.

Exhibit 6. A copy of the hearings on the Fortas Nomination as Chief Justice.

Exhibit 7. Amicus Curiae Brief, filed on behalf of Karen Applegate, in the United States Supreme Court.

2. Bound volume (5/8" thick) containing file on Los Angeles Archdiocese Resolution, dated November 2, 1987, re 95 broadcast on Exxxtasy Channel S-1 (channel 18), during the period September 1987-December 31, 1987. Complaint

3. Bound volume (1/4" thick) containing file on Los Angeles Archdiocese Resolution, dated September 6, 1988, re People v. Freeman, 46 Cal.3d.419, 250 Cal.Rptr. 598 (1988), (involving the film "Caught From Behind II"), requesting that a Petition for Rehearing be filed in the California Supreme Court.

4. Bound volume (3/8" thick) containing file on Los Angeles Archdiocese Resolution, dated November 1, 1988, requesting Petition for Certiorari be filed in the United States Supreme Court in People v. Freeman, 46 Cal.3d. 419, 250 Cal.Rptr. 598 (August 25, 1988), involving the film "Caught From Behind II").

10. Copy of Copyright application and Copyright issued to "Suzie Superstar," "Glitter," "Private School Girls," "Summer Camp Girls," and "Virginia."

11. My letter, dated October 27, 1989, to P.C.C. General Counsel Robert Pettit, and other papers (9 pages).

The nine (9) programs which American Exxtasy sent to its subscribers for the period September 1987 through February 1990 (see enclosed xerox copies) establish that the following five colleen Applegate films ("Private School Girls," "Glitter," "Suzie Superstar," "Summer Camp Girls," and "Virginia") were broadcast during that period:

09/05/87	"Private School Girls"
09/17/87	"Private School Girls"
10/14/87	"Private School Girls"
11/14/87	"Glitter"
11/23/87	"Glitter"
12/--/87	None

01/09/88	"Glitter"
01/12/88	"Private School Girls"
01/25/88	"Glitter."
01/27/88	"Private School Girls"
02/--/88	None
03/02/88	"Glitter"
03/12/88	"Suzie Superstar" (2)
03/13/88	"Glitter" (2)
03/25/88	"Suzie Superstar"
03/29/88	"Glitter"
04/04/88	"Glitter"
04/20/88	"Suzie Superstar"
04/30/88	"Suzie Superstar"
05/15/88	"Suzie Superstar"
05/20/88	"Private School Girls"
06/01/88	"Glitter"
06/04/88	"Private School Girls"
06/06/88	"Suzie superstar"
06/18/88	"Suzie Superstar"
06/21/88	"Glitter"
06/29/88	"Suzie Superstar"
07/16/88	"Suzie superstar"
08/12/88	"Suzie Superstar"
09/--/88	None
10/27/88	"Suzie Superstar"
10/29/88	"Suzie Superstar"
11/--/88	None
12/15/88	"Suzie Superstar"

01/08/89	"Suzie Superstar"
01/10/89	"Suzie Superstar"
02/20/89	"Suzie Superstar"
03/01/89	"Suzie Superstar"
03/12/89	"Suzie Superstar"
03/20/89	"Suzie Superstar"
04/--/89	None
05/--/89	None

06/--/89 - None
 07/14/89 "Summer Camp Girls"
 07/29/89 "Summer Camp Girls" (2)
 08/--/89 None
 09/01/89 "Summer camp Girls"
 09/21/89 "Summer Camp Girls"
 10/04/89 "Summer Camp Girls" (2)
 10/07/89 "Virginia" (2)
 10/13/89 "Virginia"
 10/28/89 "Virginia" (2)
 11/08/89 "Virginia"
 11/23/89 "Virginia"
 12/06/89 "Virginia" (2)
 12/17/89 "Virginia"

 01/11/90 "Summer Camp Girls"
 01/23/90 "Virginia"
 02/19/90 "Virginia"

12. Time and Motion Studies (17" x 22") of:

- (a) "Suzie Superstar"
- (b) "Glitter"
- (c) "Private School Girls"
- (d) "Virginia"
- (e) "Summer Camp Girls"

The above Time and Motion Studies are being sent under separate cover, and will be delivered by James J. Clancy in person.

13. photo-reduced xerox copies (8 1/2" x 11") of time and motion studies of:

- (a) "Suzie Superstar"
- (b) "Glitter"
- (c) "Private School Girls"
- (d) "Virginia"
- (e) "Summer Camp Girls"

14. Photo-reduced xerox copies (8 1/2" x 11") of four (4) time and motion studies of simultaneous surveillances in Niagara County, New York and Los Angeles, California of "Suzie Superstar" and "Glitter" during March of 1988.

15. comparison study of versions of "Suzie Superstar" as shown on Exxtasy Channel and the Tuxedo Channel.

"Virginia" is to be broadcast again on February 19, 1990 - 10 days hence.

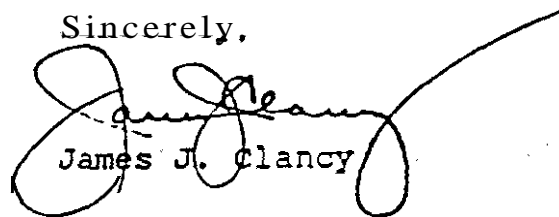
Included in the above transmissions are copies of the surveillance recordings which I made in Sun Valley, California, of two Colleen Applegate films broadcast by Exxtasy Channel (S-1, ch. 18) (within your statute of limitations period of a year): "Suzie Superstar," March 20-21, 1989, and "Virginia," October 17, 1989.

I request that your grand jury consider these transmissions to Montgomery, Alabama, and that the copyright holders of these films also be named as aiders and abettors in the obscenity crime and co-conspirators in the conspiracy crime. See copies of copyrights enclosed. Certified copies of the copyrights can be obtained from the copyright office. The signature of the applicants is admissible evidence (admission) and is all that is required to authorize extradition from California.

Relative to your proposed letter to U.S. Attorney General Thornburgh requesting that the S-1, ch. 18 broadcast of "Virginia" on February 19, 1995 be enjoined from broadcast to Montgomery County, Alabama, I particularly invite your attention to my letter dated July 21, 1988 to U.S. Attorney General Meese [see page 1, paragraph 1) and my more recent request to the new F.C.C. Chairman [appointed by President Bush), on October 27, 1989. On that date, I and Los Angeles Archdiocese Commission Chairman Dennis Jarrard met With F.C.C. General Counsel Robert Pettit in Washington, D.C. and personally delivered a letter and a time and motion study of the film "Virginia* and videotape surveillance copies of the Tuxedo Network Satellite broadcasts in Los Angeles County and requested that the future showings of that film on the Exxtasy Channel and the Tuxedo Channel be enjoined.

See copy of my letter of October 27, 1989 to Robert Pettit [enclosed) at page 2, paragraph 2.

Sincerely,



James J. Clancy

JJC/cac
encl.

JAMES J. CLANCY

ATTORNEY AT LAW

9055 LA TUNA CANYON ROAD

SUN VALLEY, CALIF. 91352

(818) 352-2069

February 10, 1990

Mr. James Evans
District Attorney of Montgomery County
P.O. Box 1667
Montgomery, Alabama 36102-1667

Dear Mr. Evans:

As a complement to the criminal process which you are presently considering against the satellite broadcasts of the Exxtasy Channel (S-1, ch. 18), I would like to recommend that you consider applying in tandem the civil remedy of injunctive and declaratory relief. See, in this regard, the enclosed complaint which I drafted in 1988 for Niagara County District Attorney Peter Broderick's Office. A bound volume (3/8" thick) of that file is enclosed for your study.

In view of the fact that Karen Applegate will be giving testimony to the Grand Jury on Tuesday, February 13, 1990, you should examine immediately Exhibit J of the enclosed proposed complaint which contains the transcript of the 58 minute documentary film: "Death of a Porn Queen."

That documentary provides a narrative account of Colleen Applegate's introduction to and participation in the production of pornographic films from age 18 to her death at age 20. A videotape copy of the documentary film is also enclosed for viewing by the grand jury.

There are several distinct advantages in your employing the civil process and the long arm statute in tandem against these foreign corporations. For example:

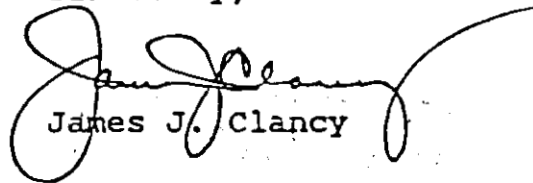
(1) a good result in a criminal case can be short-circuited by a bad trial judge or a bad appellate court decision. Generally, such errors are not appealable in a criminal case. The civil determination, however, authorizes an appeal and is certain to have a good final result;

(2) Niagara County District Attorney Peter Broderick, other law enforcement officials and citizens who are interested in law enforcement in this area could join you as plaintiffs in your state civil action. The Los Angeles Archdiocese Commission on Obscenity and Pornography and the

-Catholic Knights of Columbus could entertain joining You in your lawsuit, as could Karen Applegate;

(3) In addition, a campaign for financial contributions to support your civil litigation would make additional funds available and would provide the means of defraying the County's cost of enjoining what, clearly, is a federal public nuisance.

Sincerely,

A handwritten signature in dark ink, appearing to read "James J. Clancy", with a large, sweeping flourish extending from the end of the signature.

James J. Clancy

JJC/cac
encl.

TRESS
MOBILE, ALA.
FEB 18, 1990

Obscenity probe names 10 people, four companies

MONTGOMERY, Ala. (AP) — A county grand jury indicted the operators of a satellite adult-movie channel on pornography charges in what a prosecutor called the largest obscenity case of its kind.

The charges involved allegedly obscene videos with titles such as "Hardcore Girlfriends" and "Fantasy Chamber." The videos were beamed into Alabama on the American Ecstasy Channel, said Montgomery County District Attorney Jimmy Evans.

Among the four companies and 10 people named in the indictment released Friday were GTE Corp. of Stamford, Conn., and Home Dish Satellite Networks Inc., of New York City, also known as the Ecstasy Channel.

Evans said the 18-count indictment was "the largest, most pervasive obscenity prosecution ever conducted."

An investigation of the transmissions began about a year ago after Evans' office received complaints from parents whose children were buying copies of adult movies at school.

"The movies had been taped by other students off satellite dish transmissions," he said.

The indictments could result in a maximum of 36 years in prison and a \$540,000 fine against each defendant, consisting of the state's anti-obscenity law. The state also could seize property and profits, which Evans said could reach into the millions of dollars for the

Other corporations named in the indictments are a GTE subsidiary, GTE Spacenet Inc. of McLean, Va., and U.S. Satellite Inc. of Murray, Utah. The individuals named in the indictments were not identified because they live outside Alabama and have not been served with

Colette Connor, vice president of advertising and promotion for Home Dish Satellite Network, denied the charges.

"The movies that we broadcast, we know have never been

GTE Spacenet, said "as a communications common carrier, regulated by the (Federal Communications Commission), we have no authority to censor what customers use our satellite to transmit."

An attorney for U.S. Satellite Inc. said he had not seen the indictments and could not comment on them.

Gov. Guy Hunt and the governor of Utah, Virginia and New York will be asked to arrange extradition of those defendants to Alabama, the prosecutor said.

Terry Abbott, Hunt's press secretary, said the governor's legal team would assess the matter. "I'm sure we'll work with the district attorney any way we can," he said.

Evans said for \$150, anyone with a satellite dish, code number and descrambler could subscribe to American Ecstasy for six months. He said his investigators began taping the material and found it contained graphic scenes of sex acts which he called "hard-core obscenity" and "clearly a violation of the Anti-Obscenity Act."

That law, approved by the Legislature last May, expanded the definition of obscene materials to include telephone communications and electronic media.

Evans said he sent letters Friday to President Bush and U.S. Attorney General Richard Thornburgh asking for their cooperation in the prosecution, since the defendants may have violated federal obscenity statutes.

The mother of a porn star who committed suicide in 1984 after showing a large number of films to Montgomery to testify before the grand jury, which returned the indictments Tuesday.

Karen Applegate of Burnsville, Minn., said some of the movies made by her daughter, Colleen, are shown on the Ecstasy Channel.

"The only reason I'm here to get rid of (my daughter's) films and stop the men who use her," she

Indictments allege X-rated

Balley
staff writer

broadcasts

MONTGOMERY — Multi-count indictments alleging broadcast of obscene videos by satellite have been lodged against 10 individuals and four corporations, including General Telephone Electronics Corp. (GTE), Montgomery County District Attorney Jimmy Evans said.

It "the largest, most pervasive obscenity prosecution conducted," Evans Friday released 11-count indictments against allegedly obscene videos with titles such as "Hard Friends" and "Tropic of Desire." The videos were illegally broadcast into Alabama on the American Exxrtasy Network, Evans said.

Indictments, which Evans said could be considered 504 prosecutions, could result in a maximum of 36 years in prison and a \$540,000 fine against each defendant if considered under the state's anti-obscenity law.

The state also can seize property and profits, which Evans said could reach into the millions of dollars, of any persons or corporations found guilty of violating the Alabama law. Corporations named in the indictments included GTE Inc., of St. Louis, Mo.; GTE Spacenet Inc., of McLean, Va.; U.S. Satellite, of Murray, Utah, and Home Dish Satellite Networks, of New York, N.Y., doing business as American Exxrtasy.

Individuals named in the indictments were not identified because they live outside Alabama and have not been served with indictments, Evans said. Gov. Guy Hunt and the governors of Utah, Virginia and New York will be asked to arrange extradition of those defendants to Alabama, he said.

Abbott, Hunt's press secretary, said his legal team will handle the matter and "I'm sure we'll work with the district attorney in any way we can."

Evans said his investigation of the transmissions began about a year ago after his office received complaints from parents that their children were buying "copies of obscene movies at

the movies had been taped by other students off satellite transmissions," he said.

Evans' investigators began taping the material "on a random basis" and found it contained graphic scenes of sex acts which he called "hard-core obscenity."

Daughter died after filmmaking

Evans at the press conference were Jean Fawcett of the National Citizens Against Pornography and Mrs. Karen Appleton of Burnsville, Minn., whose daughter died after two years of making sexually explicit movies. Some of those movies still are being broadcast on the Exxrtasy Channel, Mrs. Appleton said.

Patricia Connor, vice president of advertising and promotion for Home Dish Satellite Network, said she could not confirm if any videos portraying Mrs. Appleton's deceased daughter are being aired.

"The movies that we broadcast, as far as we know, have been judged obscene," she said.

Barbara Foelbar, manager of corporate communications for GTE Spacenet, said "as a communications common carrier, regulated by the FCC, we have no authority to censor what customers use our satellite to transmit."

Evans said he has written President Bush and asked him to look into the case.

The Federal Communications Commission has authority under the 1934 Cable Communications Act to take action in such cases but has not moved against distribution of such materials under a complaint filed by Mrs. Appleton, he said.

Maureen Teratino, spokeswoman for the FCC, said Mrs. Appleton's complaint "is under consideration by us and the Department of Justice."

Thomas Cerruti of Salt Lake City, Utah, attorney for U.S. Satellite Inc. said he has not seen the indictments and cannot comment on them.

ALABAMA JOURNAL
MONTGOMERY AREA
FEB 28, 1990

Indicted TV channel goes off air

By Steve Prince

A satellite-dish channel allegedly showing obscene videos is off the air after a local-based firm, indicted under Alabama obscenity laws, stopped beaming the channel's signal to the satellite.

But a spokeswoman for Home Dish Satellite Networks Inc., which does business as the American Exxtasy Channel, said she expected the channel to resume broadcasting by Friday, after it hires a new company to send its scrambled signal to the satellite.

"Currently, we are changing uplinks ... and we will be back on the air on Friday — at least that is what it looks like now," said Colette Connor, vice president for advertising and promotions for Home Dish Satellite Networks Inc. of New York. "We are currently negotiating with several people in New York for a new uplink."

Euell Screws, a Montgomery lawyer representing U.S. Satellite Corp. of Murray, Utah, said his client voluntarily terminated its contract Monday with the operators of the American Exxtasy Channel.

The American Exxtasy Channel and U.S. Satellite were among the 10 corporations and four individuals that a Montgomery County grand jury indicted Feb. 16 for allegedly violating Alabama's obscenity laws. The American Exxtasy Channel offers satellite-dish owners the opportunity to view films with sexually graphic scenes. The films are viewed by employing a descrambler for a satellite dish.

Ms. Connor said broadcasting of the service was discontinued Monday except for a notice that the network was experiencing technical difficulties.

While maintaining his clients had no "willful intention or ability to violate any local, state, or federal statute" on obscenity, Mr. Screws said the company broke the contract because of the indictments.

"U.S. Satellite assures citizens (that) we regard our reputation ... as too important to await the ultimate determination of whether (Home Dish's) materials are indeed illegal," said Mr. Screws, who was reading from a prepared statement "U.S. Satellite, after a careful review, has elected to act promptly to terminate its contract."

Montgomery County District Attorney Jimmy Evans, who announced the indictments, said today that he was not informed directly by U.S. Satellite of their move and that it was not part of a plea-bargain agreement.

"We have insisted that we are going to enforce the law, and we are still on the mode," Mr. Evans

said. "The cases are still pending. We have taken the position that we don't even want to talk about suspension of service. We just want the Alabama Obscenity Act to stop being violated. However that is accomplished is within their own discretion."

Along with the two companies, GTE Spacenet Corp., the owner of the satellite used for the transmissions, and its parent corporation, General Telephone and Electronics Corp., have been indicted by a local grand jury.

Albany Journal
Montgomery, Ala.
Feb 28, 1978

w link will bring back X-rated videos

Associated Press

MONTGOMERY — The American Satellite Channel, knocked off its satellite transmitting after both firms were charged with obscenity charges, hopes beaming videos into Alabama again tomorrow night. The channel, provided by Home Dish Networks Inc., of New York, was taken off the air Monday when the U.S. Satellite Corp. of Murray, Utah, changed the channel's signal to a new one. "Presently, we are changing Colette Connor, vice president, advertising and promotion at Home Dish, said yesterday. She said the channel expects to resume offerings tomorrow evening at least that is what it looks like," she said.

Montgomery law-

yer representing U.S. Satellite Corp., said the company on Monday "voluntarily terminated its contract" with Home Dish.

The American Exxrtasy Channel and U.S. Satellite were among four corporations and 10 individuals indicted Feb. 16 by a Montgomery County grand jury. The defendants allegedly transmitted obscene videos with titles such as "Hardcore Girlfriends" and sexually graphic scenes to subscribers with home satellite dishes in Alabama.

Ms. Connor said Home Dish has more than 30,000 subscribers nationally. She said a "very G-rated spot informs our viewers we are in the middle of changing uplinks." She said about 300 paid subscribers are in Alabama. But she said there are about 60,000 Alabama homes with satellite dishes and "we suspect

we're rather pirated."

Ms. Connor said Home Dish expects to make arrangements with a New York company to transmit its signal to a communications satellite for broadcast. She declined to name the firm.

Along with Home Dish and U.S. Satellite, the corporate defendants indicted are GTE Spacenet Corp., owner of the communications satellite used for the transmissions in question, and its parent corporation, General Telephone and Electronics Corp.

Screws said U.S. Satellite's decision not to transmit any more allegedly obscene videos was in direct response to the indictments announced by Montgomery County District Attorney Jimmy Evans.

"U.S. Satellite denies that it had any willful intention or ability to

violate any local, state or federal statute on obscenity," Screws said. "We assure the citizens of Alabama that, no matter how innocent and involuntary our participation may have been, U.S. Satellite regards its reputation as a licensed common carrier as too important to await the ultimate determination of whether (Home Dish's) materials are indeed illegal."

"The charge of illegality having been made, U.S. Satellite, after careful review, has elected to act promptly to terminate its contract," said Screws.

Home Dish, in a prepared statement, said the company "believes its activities are lawful and constitutionally protected by the First Amendment and intends to vigorously contest the proceedings."

Mont. Gr DA
Jimmy Evans

U.S. Satellite Corp. Hoarey Oakes
Evans Screws, Montgomery

Home Dish Only — 30,000 subscribers

Alabama — 300 paid subscribers

ALABAMA JOURNAL
MONTGOMERY, ALA
Feb 7, 1990

Sex channel resumes except in Alabama, Utah

By Elizabeth Hayes

American Ecstasy, a satellite-dish channel recently indicted for showing obscene movies in violation of Alabama law, has resumed broadcasting everywhere except Alabama and Utah, a company spokeswoman said this morning.

"It's business as usual at American Ecstasy," said Colette Connor, vice president for advertising and promotions for the New York-based Home Dish Satellite Network Inc., which does business as the American Ecstasy Channel.

The channel went off the air early last week when the Utah-based firm that supplies its satellite signal ceased beaming the channel's signal to the satellite.

The Murray, Utah, firm, U.S. Satellite Network Inc., also was indicted by a Montgomery County grand jury for violating Alabama obscenity laws.

American Ecstasy broadcasts films with such titles as "Deep Inside Trading" and "Rambohhh! Sex Platoon."

After U.S. Satellite terminated its contract with Home Dish Satellite last week, Ms. Connor said Home Dish Satellite was negotiating with several other New York firms for a new uplink.

American Ecstasy was expected to be back on the air Friday, but resumed service Saturday, Ms. Connor said today.

"On that date, the state of Alabama was 'blackout.' Also the state of Utah was 'blackout,' as a show of good faith," Ms. Connor said.

She did not specify if or when the channel would resume broadcasting in Alabama and Utah.

Richard Lambert, an assistant U.S. attorney in Salt Lake City, said the government has a "pending investigation. We are looking into the Utah connection."

Home Dish Satellite's local counsel, Ron Wise, said today he had nothing to add to Ms. Connor's statement.

Home Dish Satellite Network Inc., U.S. Satellite Network Inc. and two other corporations and individuals were indicted by a Montgomery County grand jury Feb. 16.

"We have hired the best First Amendment lawyers in the country," Ms. Connor said. "We're going to fight this and we're going to win."

COLETTE CONNOR
VP ADVERTISING
& PROMOTIONS
AMERICAN ECSTASY

MURRAY DITTO
U.S. SATELLITE NETWORK INC

RICHARD LAMBERT
ASST. U.S. ATTY SALT LAKE CITY, UTAH

RON WISE
HOME DISH SATELLITE LOCAL COUNSEL
RAN WISE

NEWS
BIRMINGHAM, ALABAMA
MAR 8, 1990

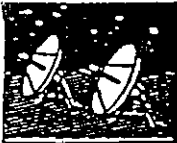
Home Dish 'blacks out' signals

But obscenity charges won't be dropped, Evans says

Balley
aff writer

MONTGOMERY — A New company has resumed t of allegedly obscene by satellite but has "out" decoding signals ld allow the videos to red in unscrambled form in Alabama and pokeswoman said.

Connor, a vice president of New York Dish Satellite Networks Inc. — one companies charged with violating Ala anti-obscenity law through satellite ts on the American Exxtasy Channel — "blackout" was intended "as a show of re was any suggestion at all of a viola-



tion of the law in Alabama, the company decided to act on the side of caution and not air it in Alabama," said Montgomery attorney Ron Wise, representing Home Dish.

The company also is not broadcasting decoder signals to subscribers in Utah, because Home Dish "apparently" is also under investigation in that state, Wise said.

Ms. Connor said the "blackout" is being achieved by removing the decoder signals by computer for descrambling machines owned by customers whose addresses show zip code numbers in Alabama and Utah.

By not broadcasting the decoder signals in the two states, the company is not conceding that it violated the law, Wise said.

"We have hired the best First Amendment lawyers in the country. We are going to fight this, and we are going to win," Ms. Connor said.

Montgomery County District Attorney Jimmy

Evans said the blackout will not affect the pending cases against Home Dish, because the indictments involve the company's past actions.

Evans said he has asked Gov. Guy Hunt to give priority to arrangements for officers of Home Dish to be extradited to Alabama to stand trial.

Hunt's legal a said
Evans' request

The so-called blackout by ne I I have
no bearing on our processing of the ti
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va u the bl) neither affects the case
po sh the cc "good faith" because
Home Dish is givi bscripti i similar
eos on another of its channels t those whose
iptic t ti i E y Channel
was interrupted.

"They are just swapping one obscenity channel for another," said Evans, calling it "a continuing, willful conspiracy to violate" Alabama's obscenity law.

Evans called Home Dish "the largest, most pervasive, electronic smut peddlers on this planet."

Be said he will ask a Montgomery County grand jury for more indictments against Home Dish and any uplink and satellite companies which carry its programming.

The American Exxtasy Channel went off the air Feb. 26 after a Utah company, U.S. Satellite Corp., stopped beaming the videos to a GTE Spacenet satellite for nation-

GTE Spacenet Corp. of McLean, Va., and its parent company, General Telephone and Electronics Corp. of Stamford, Conn., also were charged in the indictments along with Home Dish and U.S. Satellite.


Ms. Connor said the American Exxtasy Channel resumed broadcast Saturday through another uplink company, but she refused to say which one.

TUESDAY, MARCH 13, 1990

OUR 102nd YEAR

Adult channel off air nationwide

MONTGOMERY — One of the companies cited on obscenity charges last month by a Montgomery County grand jury has pulled the plug worldwide on the American Exxstasy Channel. Attorneys for GTE Spacenet Corp. of McLean, which owns the satellite which transmits the movie channel to satellite dish owners, told Montgomery County District Attorney Jimmy Evans Monday that "they" would not allow the satellite to be used to violate Alabama obscenity laws, Evans said.



GTE officials refused to comment, but a spokeswoman for Home Dish Satellite Networks Inc., of New York, which operates American Exxxstasy, confirmed that GTE had terminated the transmission contract for the channel, which went off the air Friday night.

The channel had been knocked off the air once before, on Feb. 26, when U.S. Satellite Corp. of Murray, Utah, announced it would no longer transmit American Ecstasy's signal to the satellite. Home Dish found another uplink company, however, and resumed transmissions March 3, with Alabama and Utah blacked out "as a show of good faith," said Colette Connor, the company's vice

president of advertising and promotion.

Home Dish, GTE Spacenet and its parent company, General Telephone and Electronics Corp. of Stamford, Conn., and U.S. Satellite all were named in the obscenely indictments handed down last month.

None of the charges has been dropped, but Evans said the recent actions of U.S. Satellite and GTE would be taken into consideration.

"We cannot overlook the fact that they have taken these positive steps," he said.

Evans said he is now focusing his efforts on extraditing New York executives of Home Dish, who are scheduled to be arraigned in Montgomery March 22.

Ms. Connor of Home Dish refused to say what the company's next move would be. Along with American Exotasy, Home Dish operates Tuxedo Network, a pay-per-view adult movie channel, and Stardust Theatre, a mainstream movie channel for satellite dish owners.

It took us by a big surprise . . . I didn't know the impact we would have. We're real proud of that impact.

Montgomery
District Attorney
Jimmy Evans

FROM James J. Clancy
9:55 AM, Thurs. 10/1/82
JUN Clancy, 10/1/82, 9:38Z

To: Mike Mancuso
718-328-8526

Evans said he had not expected the Montgomery County indictments to have such a national impact. "It took us by surprise. I didn't know the impact we would have," he said, adding, "we're real proud of that impact."

ellite sex channel grounded; broadcaster

Birmingham Post-Herald, Tuesday, March 13, 1990 D5.

(aims threat by GTE unit:

Associated Press

MONTGOMERY — A satellite broadcasting firm charged with obscenity for sending sexually explicit channel American Exstasy into Alabama homes has halted transmissions of the service.

It was apparently the second time the American Exstasy channel has gone off the air since four corporations and 10 people were indicted last month by a Montgomery County grand jury on obscenity charges.

The channel, provided by the New York-based Home Dish Satellite Network Inc., on Saturday was broadcasting a message stating the company had pulled the Exstasy channel after receiving a threatening letter from General Telephone and Electronics Corp.

GTE's subsidiary, GTE Spacenet Corp. of McLean, Va., owns the satellite that has broadcast the channel.

"We have made no decision as to what impact it will have as to future prosecutions," Montgomery County District Attorney Jimmy Evans said, but he pledged to bring the indicted company officials from other states to Montgomery for trial.

Colette Connor, vice president for advertising and promotions for Home Dish, yesterday had no comment on the halted transmissions.

According to the message, Home Dish ordered the transmission stopped after GTE sent a letter accusing Home Dish of transmitting films which GTE says "law enforcement officials have determined to be obscene."

Barbara Foelber, a GTE Spacenet spokeswoman, said yesterday GTE's legal department was in the process of preparing a statement.

Late last month, the channel went off the air when U.S. Satellite Corp. of Murray, Utah, stopped broadcasting the channel's scrambled signal for Home Dish.

Home Dish officials said last week they had resumed service except to Alabama and Utah, which also challenged the program. But American Exstasy was pulled from the air again after Home Dish officials received the letter Friday from GTE officials.

Evans announced Feb. 15 that a Montgomery County grand jury had indicted

Home Dish TV channel, focus of obscenity probe, is folding

By Justin Fox
News staff writer

MONTGOMERY — The New York satellite television company that has been the focus of a Montgomery County grand jury obscenity investigation is going out of business, a company official said.

On Wednesday, officials of Hughes Communications Inc. informed Home Dish Satellite Networks Inc. that the company could no longer use a Hughes satellite to transmit Tuxedo Channel, a sex-film channel that was Home Dish's last surviving operation.

"We're going out of business," said Robert Kramer, chief financial officer of Home Dish. "It's just a question of a few weeks. We have no operations."

Maurice Smith, a Montgomery attorney representing General Motors, which owns Hughes Communications, said the move to pull the plug on Tuxedo was "a matter of corporate judgment." A Montgomery County grand jury is scheduled to hear evidence in the Tuxedo obscenity case April 24, and "the pending investigation brought some weren't aware of," he said.

In February, the Montgomery County grand jury handed down obscenity indictments against Home Dish and three other companies for broadcasting American Express Channel, which showed triple-X films with titles such as "Ramb-Ohh Sex Platoon" and "Ginger Does Em All." Within weeks, General Telephone and Electronics Corp., GTE SpaceNet Inc., and U.S. Satellite Inc. had broken off their transmission contracts with Home Dish, and America Express was off the air.

Standard Channel, a mainstream movie channel operated by Home Dish, went off the air earlier this month because it was using wrong

The company cut its payroll from 100 to 15 and focused its operations on Tuxedo, a channel which company officials said was similar to cable's Playboy Channel.

Home Dish officials appeared shocked by the company's rapid collapse. "I'm not interested in really talking," Kramer said. "I'm depressed right now."

District Attorney Jimmy Evans, who headed the investigation of Home Dish, has said repeatedly that he never intended to drive Home Dish out of business, only to make it stop broadcasting films he considered obscene.

"This took us, again, by surprise," he said of Hughes Communications' move to cut off Tuxedo Channel.

Evans said the grand jury investigation of Tuxedo will continue, as will efforts to extradite Home Dish officials to Alabama to stand trial in the American Express case.

The Home Dish channels could be received only by satellite dish owners who purchased a special decoder.

BIRMINGHAM Ala. News
April 13, 1990

Network again indicted over sex films

Birmingham Post-Herald
April 27, 1975

By Stan Bailey
News staff writer

MONTGOMERY — Pulsating Flesh and Fatal Seductions have gotten a New York broadcasting company into more legal trouble in Alabama.

Those movies and others distributed by Home Dish Satellite Networks Inc. have prompted more obscenity indictments from a Montgomery County grand jury.

Montgomery County District Attorney Jimmy Evans said the grand jury returned two 12-count indictments accusing Home Dish — doing business as Tuxedo Network Inc. — of violating Alabama's anti-obscenity law by broadcasting sexually explicit films by satellite into Alabama.

The indictments accused the company of wholesale and retail distribution of materials with titles such as Pulsating Flesh, Moonlusting, A Little Dove-tail and Fatal Seductions.

Evans said Home Dish, which was indicted in February along with General Telephone and Electronics Corp. (GTE), U.S. Satellite Corp. and others on obscenity charges, gave its clients subscription time on the Tuxedo Network after U.S. Satellite stopped broadcasting Home Dish's other sex-channel, American Ecstasy.

Home Dish officials say the company has ceased all broadcasting and is essentially out of business, but has filed a \$5 million federal suit against Hughes Communications Inc., which recently removed broadcasts of Tuxedo from its satellite.

Evans said he asked Hughes, a General Motors subsidiary, for information and was promised "100 percent cooperation."

Atlanta attorney Larry Thompson, representing Hughes, said his company "made an independent decision" to terminate the contract with Tuxedo.

"That's not exactly the truth," said Donald S. Zakarin, attorney for Home Dish.

Evans had been in a "lengthy, ongoing dialogue" with

they were broadcasting.

Recent amendments to the federal Cable Communications Act allow the states to prohibit the broadcast of obscene materials, as Alabama's anti-obscenity statute does, Evans said.

"I suppose Mr. Evans thinks the First Amendment is silly, too," Zakarin said Thursday.

Zakarin said he has learned that Evans attended law school at his own alma mater, New York University, but "I was there when they fought about the First Amendment. He (Evans) must have missed class."

Evans said New York Gov. Mario Cuomo has been asked to issue warrants for the arrest of Home Dish officials to require them to come to Alabama to stand trial.

Zakarin said he is aware of Alabama's requests for extradition of Home Dish officials and has filed objections with Cuomo.

Alabama Breaks York Company

By NEIL A. LEWIS

months ago the Home Dish Corporation was a flourishing New York City company, beaming sex films to 30,000 subscribers and the country and soft-core to 1 million customers.

Among the homes receiving the stations were about 50 in Montgomery County, Ala., where the District Attorney has vowed to stamp out pornography. Now the company finds itself out of business.

Facing criminal charges in violation of Alabama law is the first case in which obscenity laws are being applied to a technology carried nationwide by satellite technology.

York's Governor, Mario M. Cuomo, has been asked to extradite Home Dish's four officers, who have no foot in Alabama, to face charges that they violated Alabama's obscenity law.

In addition to Home Dish, some other companies involved in its satellite transmission were also indicted. As a result, they refused to do business with Home Dish, and the company has been forced into bankruptcy.

Alabama has been prosecuting people for obscenity charges since the early 1970s, and the Home Dish case has again the issue of differing community standards in tolerating pornography. But it also involves the question of the threat of legal action in one state can so frighten distributors that materials may not be freely distributed elsewhere in the country.

Alabama's libel officials have decried prosecution as a threat to First Amendment rights and say the Montgomery County District Attorney, Evan Davis, brought the case against the company because he is running for State Attorney General, an office he sought unsuccessfully four years ago.

Mr. Evans did not return repeated phone calls; an aide said he was campaigning. But his senior assistant, Steven Feaga, said the charges were brought because the company offended the standards of the community. "I think they would offend any community," he said.

Alabama law is modeled on a Supreme Court opinion in which obscenity was defined in part as works that offend local community standards. Last year, the Alabama Legislature amended the law to include satellite transmissions. Mr. Feaga said investigation was begun after a complaint that children at a high school were selling copies of a broadcast by a Home Dish subsidiary, the American Exxstasy.

The American Exxstasy featured sex films that show explicit sexual acts and had about 30,000 customers nationwide, of which 22 were in Montgomery County, Ala. To receive

American Exxstasy, satellite dish owners paid Home Dish \$20 a month or \$60 a year.

Home Dish also operated the Tuxedo channel, which beamed R-rated films by satellite to cable companies that then made them available to about 1.2 million customers. About 30 Montgomery County residents paid \$4.95 a month for the Tuxedo service.

Big Concerns Are Charged

On Feb. 14, Mr. Evans announced indictments against Home Dish Satellite as well as some of the nation's largest telecommunications companies and their officers based on the films provided by American Exxstasy. The companies charged by the grand jury were the GTE Corporation, the GTE Spacenet Corporation, and United States Satellite Inc. GTE and GTE Spacenet operate the satellite that carried American Exxstasy and United States Satellite provided service of getting the programs to the satellite, known as the "uplink."

Within days of the indictments, all of the companies involved in carrying satellite signals ended their contracts with Home Dish, citing the Alabama charges. Other satellite companies and "uplinkers" concerned declined to carry Home Dish's Exxstasy channel.

Hughes Communications also cut off Home Dish from sending its R-rated Tuxedo service.

"We were out of business at that point," said Jeffrey J. Younger, the president of Home Dish, which he said had aspired to become "The HBO of the adult film industry." Last week, Mr. Evans announced that a grand jury had indicted the Tuxedo network as well.

Norman Dorsen, the president of the American Civil Liberties Union who is one of the lawyers defending Home Dish, said, "It is shocking to think that Alabama could reach out and chill free speech in all 50 states."

Mark Ellison, chief counsel for the Satellite Broadcasting Communications Association, a trade association, said that he was especially troubled by the indictment of the Tuxedo network, because it did not show X-rated movies but R-rated films with no explicit depiction of sexual acts.

Broader Problem Is Seen

"If there's any kind of trouble with Tuxedo," he said, "there's potential trouble for all the major cable companies like HBO, Cinemax and the Movie Channel." Those companies offer similar films, he said.

Paul Sherman, a New York City lawyer representing Home Dish with Mr. Dorsen, said that under New York state law a person may not be extradited to another state unless the crime he is charged with is one that would be a violation of New York law. "This stuff is surely not a crime in New York," he said.

Evan Davis, Governor Cuomo's counsel, said through a spokesman that

he had not yet studied the extradition request from Gov. Guy Hunt of Alabama. Mr. Evans has not sought the extradition of the six other people indicted, including the chairman of GTE.

Professor Thomas G. Krattenmaker at Georgetown University Law School said it is generally accepted in communications law that companies licensed by the Federal Communications Commission as common carriers are not responsible for the content of what they carry. The telephone companies, for example, are not liable for the so-called dial-a-porn services but a bill is pending in Congress to change that.

Under Supreme Court decisions, the issue of whether films or books violate local standards is ultimately a question for a jury. Mr. Dorsen said that he believed Alabama's contemporary community standards are surely not the same as in many, if not, most other states.

But Mr. Feaga disagreed. "I think the average New Yorker viewing these films would also view them as obscene," he said.

Mr. Feaga said that he understood that such films were freely available in New York but he said that did not represent any difference in community

standards but rather an unwillingness of the New York authorities to enforce the law.

Montgomery County includes the capital city of Montgomery, one of the fastest growing cities in the South and two Air Force bases.

Since Mr. Evans began his campaign against pornography, there have been no X-rated films offered at the 30 to 40 video stores in the city although many offer the R-rated movies.

Mr. Evans lost a court battle in 1984 to stop distribution of what he said were obscene magazines and convenience stores continue to sell Playboy and Penthouse magazines. Mr. Feaga said the District Attorney's office has been successful in shutting down drive-in movies and businesses that offered private viewing booths for pornographic films.

Obscenity law applied to satellite programming

Montgomery
Advertiser
MAY 3, 1990

By NEIL A. LEWIS
New York Times Writer

NEW YORK — Two months ago the Home Dish Satellite Corp. was a flourishing New York City company, beaming hard-core sex films to 30,000 subscribers around the country and soft-core ones to 1.2 million customers.

But among the homes receiving the transmissions were about 50 in Montgomery County where the district attorney has vowed to stamp out pornography. Now the company finds itself driven out of business.

It is facing criminal charges in what lawyers say is the first case in which local obscenity laws are being applied to programs carried nationwide by satellite technology.

New York's governor, Mario M. Cuomo, has been asked to extradite Home Dish's four officers, who have never set foot in Alabama, to face charges that they violated Alabama's obscenity law.

In addition to Home Dish, some major companies involved in its satellite transmission were also indicted. As a result, they refused to do business with Home Dish, and the company has been forced into bankruptcy.

States have been prosecuting people on obscenity charges since the early 19th century, and the Home Dish case raises again the issue of differing community standards in tolerating pornography.

But it also involves the question of how the threat of legal action in one community can so frighten distributors that such materials may not be freely disseminated elsewhere in the country.

Civil liberties officials have decried the prosecution as a threat to First Amendment rights and say the Montgomery County district attorney, Jimmy Evans, brought the case against the company because he is running for state attorney general, an office he sought unsuccessfully four years ago.

Mr. Evans did not return repeated telephone calls; an aide said he was busy campaigning. But his senior assistant, Steven Feaga, said the charges were brought because the films offended the standards of the local

area in part as works that offend local community standards. Last year, the Alabama legislature amended the law to include satellite transmissions.

Mr. Feaga said the investigation was begun after a parent complained that children at a junior high school were selling copies of films broadcast by a Home Dish subsidiary, the American Exxxstasy Channel.

American Exxxstasy featured X-rated films that show explicit sexual acts and had about 30,000 customers around the nation, of which 22 were in Montgomery County. To receive American Exxxstasy, satellite dish owners paid Home Dish \$20 a month.

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June 30, 2001

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VAN NUYS

Playboy to Acquire 3 Hard-Core Porn Channels

Television: Deal with Vivid would bolster company, which has been losing market share to more explicit upstarts.

SALLIE HOFMEISTER and RALPH

FRAMMOLINO, TIMES STAFF WRITERS,

Expanding into the hard-core pornography business, Playboy Enterprises Inc. has struck an agreement with Van Nuys-based Vivid Video to buy its three fast-growing XX-rated television channels, according to sources close to the two companies.

Times Headlines

Chrisie Hefner, chief executive of Playboy, contacted some of the Chicago-based company's largest distributors Friday to notify them of the deal according to the sources. Vivid, one of the nation's largest producers of pornography, also alerted some distributors Friday of the planned sale, they said.

Playboy spokesman Scott Barton would not comment Friday. Vivid executives did not return phone calls. The deal, which is expected to be announced Monday, would bolster Playboy's lead in the adult television business. Playboy currently owns three soft-core channels: Playboy TV and two Spice networks. In the last three years, the company has been losing market share to new hard-core channels including the three it has agreed to buy from Vivid.

The three channels are Vivid TV, the Hot Network and Hot Zone. All three Vivid channels carry a rating of XX or higher, making them more extreme than Playboy's X-rated networks.

Attempting to stop the erosion of its channels by the upstart? Playboy announced last year its plans to enter the hard-core television arena. But it has found little support for the three proposed Spice Platinum channels. No cable or satellite operators have agreed to distribute Playboy's new channels, in large part because they already have deals with competitors.

Business Tools

Sections

OVERVIEW FILE

Wall Street analysts have speculated that the chilly reception by distributors would force Playboy to buy one of its new competitors.

The terms of the deal could not be learned, but industry sources and analysts estimate the three channels could be worth more than \$50 million. Vivid does not disclose financial figures because it is privately held.

Editions

Playboy passed up a chance to acquire what is now known as the Hot Network for a fraction of the price when it bought one-time rival Spice Entertainment Cos. for \$127 million in March 1999.

Extras

Instead, Playboy took control of only Spice's S-rated television operations. The company sold off another potentially controversial channel, Spice Hot, to a new company called Califa Entertainment. Califa is owned by Vivid partners.

Unlike the X-rated channels, Spice Hot was a pioneer in XX-rated movies for TV depicting actual sexual intercourse. The channel was from the start more than twice as popular as traditional soft-core porn among cable and satellite customers.

Playboy loaned Califa all but \$500,000 of the \$10.5-million sale price, but retained an option to buy the channel back in March 2002, according to public filings. It negotiated to exercise its option early. In addition, Playboy agreed not to launch a competing XX channel and licensed the hard-core versions of its movies to the new channel, which Califa renamed the Hot Network.

Subscription Services

Since then, Hot has grown significantly, partly because of distribution agreements with DirecTV and AT&T Broadband, the leading satellite and cable providers, respectively. The three networks in the deal reach about 30 million of the nation's 85 million cable and satellite homes.

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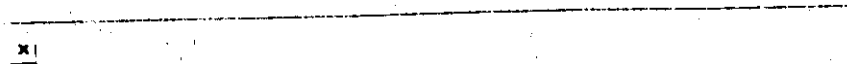
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Playboy to Acquire 3 Hard-Core Porn Channels

From: Carol Santi

9/11/01 04:1:58 Page 4 of 4

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Tuesday, July 3, 2001

Playboy Sheds 'Gentleman's' Cloak, Buys 'XX' TV Channels

• Media: Its plans to add explicit programming emphasize the growing tolerance of racier TV.

By SALLIE HOFMEISTER, RALPH FRAMMOLINO, Times Staff Writers

Playboy Enterprises Inc. on Monday moved to preserve its role as America's dominant purveyor of sex on television by bringing more explicit movies into the living room.

The Chicago-based company agreed to acquire three XX-rated sex channels from the owners of Van Nuys-based Vivid Video, one of the largest producers of porn movies, for \$70 million.

The transaction, as The Times reported Saturday, will put Playboy far out in front of Sew Frontier Media Inc., which will become the only other significant adult television programmer.

The move is a departure from Playboy's carefully cultivated image as a "gentleman's" brand. The three channels it is acquiring--Vivid TV, Hot Network and Hot Zone--carry more extreme programming than anything on Playboy's three X-rated networks--Playboy TV, Spice and Spice 2.

Playboy's strategic about-face underscores the grossing acceptance of racier sex on television. Hard-core pornography has become increasingly popular and hugely profitable for satellite and cable operators, forcing Playboy to give up its singular devotion to soft-core programming.

Mondays deal "dramatically expands the number of U.S. television households that we reach, and therefore clearly positions us as the leading supplier of a range of adult m-----" said Christie Hefner, Playboy's 48-year-old chief executive, in a conference a with investors. "We will be able to serve [our] constituencies better, by providing a range of nonviolent erotic entertainment to meet market demand."

In doing so, the Playboy empire hopes to stay at the vanguard of the s e d revolution that founder Hugh Hefner kicked into high gear nearh 50 years ago with the famous Marilyn Monroe magazine centerfold. The company also is trying to protect its star television business at a time when Playboy's flagship magazine and its fledgling Internet operation are losing money.

Many industry experts said Playboy was losing ground to upstarts that are fast

redefining adult television with extremely hard-core channels.

"Playboy had the advantage of a brand name and a lot of real estate on cable," said Jedd Buss-Palmer, a Denver-based programming consultant and cable industry veteran. "But they missed the market. They were becoming marginalized."

Christie Hefner declined to be interviewed for this report. But her father, Playboy founder Hugh Hefner, said he has no regrets about the company's late entry to the hard-core arena.

"If we wanted to get in [earlier], we would have," Hefner said last month at the 75th birthday bash for the late Marilyn Monroe he held at his mansion in Holmby Hills.

According to interviews with dozens of cable, satellite and company executives, Christie Hefner—who with her father owns 71% of Playboy—was protective of the company's image and personally uncomfortable about pushing into graphic fire. One former employee said Christie Hefner describes the company as a "Disney for grown-ups."

"It stems from coming out of the Midwest," explained Jim English, president of the Beverly Hills-based Playboy Television Networks. "You wouldn't want to go to a cocktail party and have someone come up and say, 'I hear you're making porn movies now!' I'm OK for me, but not for Christie."

Once a pioneer in breaking sexual taboos, Playboy became so comfortable with its own brand of 1950s "stylized eroticism"—symbolized by the ubiquitous bunny logo—that the Helker empire failed to keep pace with America's growing appetite for more graphic porn on television.

The line between mainstream and pornography has blurred. Porn stars date rock stars, chat on radio programs and appear on album covers. R-rated films veer into X-rated territory. Television tilts toward the risqué, from bare buttocks on "NYPD Blue" to the bed-hopping antics of HBO's "Sex in the City."

"Playboy has always been the class act, more creative and thoughtful," said Larry Gerbrandt, chief content officer at Lagen World Media, a market research firm in Carmel. "But that's not necessarily what people wanted. The company has suffered for not plunging into dirtier waters."

Satellite providers such as DirecTV and EchoStar Communications Corp. have been selling XX-rated pay-per-view movies for at least two years. Some major cable companies have started carrying XX-rated channels in the last year. And one of the last and largest holdouts, AOL Time Warner Inc., the nation's second-largest cable operator, is expected to change its policy against carrying XX-rated material within the next year, according to sources close to the company.

Cable and satellite sales of adult pay-per-view programming are expected to nearly double by 2005 from \$465 million in 2000, according to Kagan World Media.

Satellite operators have aggressively devoted pay-per-view channels to XX-rated movies, leading many cable operators to follow suit. These movies show intercourse, oral sex and close-up shots. Triple-X shows are more graphic still. The X-rated "soft" porn featured by Playboy is characterized by nudity, wide- and medium-camera shots, simulated sex and sex between women.

For Playboy, a defining moment came two years ago, when the company passed up the chance to buy what became the Hot Networks. Hot was the raciest of three networks that were part of Spice Inc., a company that Playboy agreed to buy in

1998 for \$127 million. Playboy kept the two lesser channels—Spice and Spice 2—but sold Spice Hot to the Vivid principals and retained an option to buy it back.

English said there was no way of knowing at the time how acceptable hard-core programming would become. "We did not misjudge the market," he said.

Playboy is having to pay a steep price to recover lost ground. Monday's deal values

Hot and Hot Zone at \$28.3 million--nearly three times what Playboy sold them for in 1998.

The television business is the lifeblood of Playboy. Tiiz three U.S. channels account for the bulk of the revenue in its entertainment group, which was the only profitable division in the first quarter. The unit, which also includes international television worldwide home video and movie sales, reported a \$5.2-million profit on revenue of \$24.7 million in the three months ended March 31.

Of that total, the three U.S. channels took in \$19 million, down slightly from \$19.1 million in the year-earlier period. The Spice acquisition allowed Playboy to increase revenue even as competitors such as Hot gained market share. The continued expansion on cable and satellite of Playboy's three channels also helped sustain revenue levels.

Although the magazine still ranks among the nation's top 10, its circulation has dropped from a peak of 5 million in the early 1980s to 4.5 million today. Lately, the magazine has suffered from an industrywide advertising and subscription downturn, losing \$1 million in the first quarter, compared with a \$1.6-million profit a year earlier.

But publishing isn't losing nearly as much money as the company's foray into cyberspace. Though Wall Street considers the Internet a key to Playboy's future, the company's push largely was responsible for a companywide operating loss last year of \$16.9 million.

Playboy shares dropped to a low of \$8.38 in late December from a high of \$29.81 in 1999 in large part because of increasing losses.

The stock bounced back as Playboy sharply cut Internet spending in the first quarter. Mer a 26% rise this year? Bares inched up \$1.33 on Monday, to close at 17.50 a share.

Initially, the prospects of Playboy going hard-core troubled some major cable operators. Tele-Communications Inc., the nation's most powerful cable company before its sale two years ago to AT&T Corp., pressured Playboy to tone down the XX-rated Spice channel hoping to eliminate any regulatory threat or migration to harder-core movies.

The cable industry still has a love-hate relationship with adult programming, which one insider calls the "secret hidden asset." Although porn is a touchy subject, no television executive disputes its high profit margins.

Few cable or satellite TV executives are willing to talk publicly about adult programming for fear of inciting criticism from investors, subscribers and politicians who might revoke their licenses.

AT&T came under fire from some shareholders this year for refusing to disclose the profit it earns from porn programming on its cable systems. The shareholders petitioned the Securities and Exchange Commission to order the phone giant to disclose the profit, but the SEC declined.

Adelphia Communications Corp., Southern California's largest cable provider, refuses to carry any adult channels because its founder and chief executive, John Rigas, believes it is immoral.

Adult video, however, quickly found its way into adult programming in the late '80s, when pay-per-view technology made it more secure.

Playboy will remain devoted to softer material, whereas Spice will be more extreme, Christie Hefner said in the Monday conference call. Two of the Vivid channels will be renamed Spice Hot and Spice Zone. The more graphic Vivid TV will be renamed Spice Platinum Live.

English said Playboy will abandon a yearlong effort to launch two hard-core movie channels of its own because of a lack of interest among distributors, which saw them as redundant.

The company will move forward with a new live format that will draw content from the Internet and be hosted by Jenna Jameson, a leading porn star who is under contract with Vivid.

Playboy officials are acutely aware of the success of new hard-core rivals.

"Do we know those numbers? Yes," English said. "Does it indicate that the public's taste and acceptability of [hard-core sex] has changed? Yes. So 'yes' and 'yes' equal 'got to do something.'"

For distributors, the more explicit porn has the highest profit margins in the pay-per-view business.

Although cable operators usually pocket less than 50% of revenue from a pay-per-view mainstream movie, they keep as much as 90% of the money from porn provided by Playboy's competitors.

attractive terms partly were the result of fierce competition among Vivid; Playboy and New Frontier, as well as the low cost of producing porn.

Ultimately, Playboy's acquisition "is about generating revenue and profitability and maximizing shareholder value," said Mark Krelloff, president of Colorado-based New Frontier, which owns the only XXX-rated channels. "This programming sells. It will always sell."

* * *

Times staff writer P.J. Huffstutter contributed to this report

* + *

* *

Playboy's Problem

Playboy Enterprises Inc., whose founder, Hugh Hefner, helped launch the sexual revolution of the 1960s, finds its television business--its most profitable division--under siege. After deciding not to enter the hard-core segment nearly two years ago, the company did an about-face Monday and purchased three hard-core channels from the owners of Vivid Video, which quickly became one of its largest competitors. Playboy Chief Executive Christie Hefner said the deal positions the company as "the leading supplier of a range of adult entertainment."

Porn continues to gain popularity ...

Satellite and cable operators expect pay-per-view revenues from adult TV channels to nearly double over the next five years.

2006 (estimate): \$945 million

...but Playboy's companywide revenue has stalled and profits have eroded.

Net sales, in millions

2000: \$307.7 million

Net income, in millions

2000: -\$47.6 million

After a spike in 1999, the company's stock price has fallen back to 1998 levels.

Monthly closes and latest for PLA

Monday: \$17.50

Sources: Times research, Bloomberg News, Kagan World Media

* * *

The Cable Porn Market

Here's a look at the biggest players in the cable porn industry. Playboy announced Monday that it is buying Hot Network, Hot Zone and Vivid TV.

Millions of households reached in 2000 through cable and satellite and the year each channel began:

* * *

Playboy

29.6: Playboy TV (1982)

16.5: Spice (1999)

46.1 total

* * *

Vivid

16.0 Hot Network (1997)

10.0: Vivid TV (1999)

10.0: Hot Zone (1999)

36.0 total

* * *

New Frontier

17.5: Pleasure (1999)

6.8: TeN (1998)

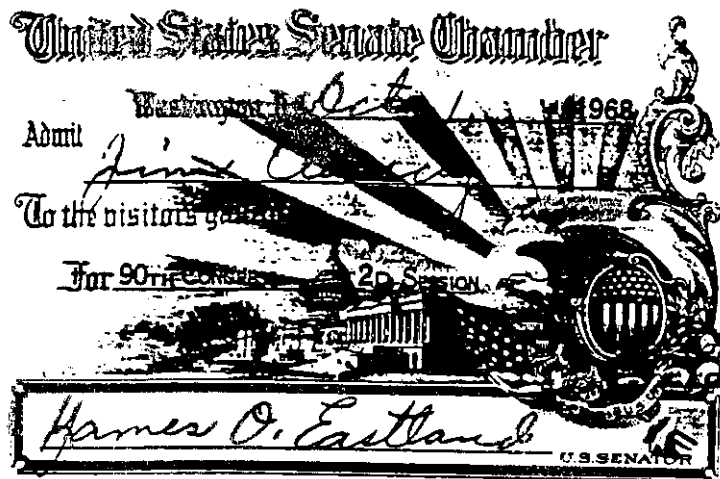
2.4: ETC (2000)

26.7 total

Source: Times research

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HEARINGS

BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
NINETIETH CONGRESS
SECOND SESSION

ON

NOMINATION OF ABE FORTAS, OF TENNESSEE, TO BE CHIEF
JUSTICE OF THE UNITED STATES

AND

NOMINATION OF HOMER THORNBERRY, OF TEXAS, TO BE
ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE
UNITED STATES

PART 2

SEPTEMBER 13 AND 16, 1968



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